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UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA

**In re:**

**Case No. 10-41863 EDJ**

**JENNIFER MARIE DURAN,**

**Chapter 13**

**Debtor.**

**MOTION TO VALUE SECURITY OF  
EMC MORTGAGE CORPORATION UNDER  
FRBP 3012; NOTICE AND  
OPPORTUNITY TO REQUEST A  
HEARING**

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Debtor Jennifer Marie Duran ("Debtor") hereby moves the court to value the second claim of EMC Mortgage Corporation ("EMC Mortgage") secured by a lien against Debtor's property located at 1140 Capistrano Court, Fairfield, CA 94533 ("the property").

1. This motion is based on the petition, schedules, and documents on file herein, and the Memorandum of Points and Authorities in Support of the Motion and Declaration of Debtor in Support of the Motion filed herewith.

2. As stated in the attached Declaration, at the time of filing, Debtor's residence was worth less than the first lien against the property held by EMC Mortgage.

3. EMC Mortgage also holds the second lien against the property.

1 Based on the foregoing, and for the reasons stated in the  
2 attached Memorandum of Points and Authorities, Debtor prays that:

3 1. For purposes of Debtor's chapter 13 plan only, the court value  
4 EMC Mortgage's second lien at zero, hold that EMC Mortgage does not  
5 have a secured second claim, and hold that EMC Mortgage's second lien  
6 may not be enforced, pursuant to 11 U.S.C. §§ 506, 1322(b)(2), and  
7 1327; and

8 2. Upon entry of a discharge in Debtor's chapter 13 case, the  
9 second lien shall be voided for all purposes, and upon application by  
10 Debtor, the court will enter an appropriate form of judgment voiding  
11 the lien.

12 **PLEASE TAKE NOTICE:**

13 (i) That Local Rule 9014-1 of the United States Bankruptcy Court  
14 for the Northern District of California prescribes the procedures to  
15 be followed and that any objection to the requested relief, or a  
16 request for hearing on the matter must be filed and served upon the  
17 undersigned within twenty-one (21) days of mailing of this Notice;

18 (ii) That a request for hearing or objection must be accompanied  
19 by any declarations or memoranda of law the party objecting or  
20 requesting wishes to present in support of its position;

21 (iii) That if there is not a timely objection to the requested  
22 relief or a request for hearing, the Court may enter an order granting  
23 the relief by default; and

24 (iv) That the undersigned will give at least seven (7) days  
25 written notice of hearing to the objecting or requesting party, and to  
26

1 any trustee or committee appointed in the case, in the event an  
2 objection or request for hearing is timely made; and

3 (v) That, except as otherwise ordered by the court, the initial  
4 hearing on the motion will not be an evidentiary hearing, and will  
5 serve as a status conference at which the court may schedule any  
6 evidentiary hearing necessary.

7  
8 Dated: April 27, 2010

/s/ Corrine Bielejeski\_\_\_\_\_  
CORRINE BIELEJESKI  
Attorney for Debtor